



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE

JOHN W. McCONNELL
COUNSEL

September 28, 2018

Hon. Kenneth M. Karas
United States District Court Judge
United States District Court
Southern District of New York
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

Re: Fishman v. Office of Court Administration New York State Courts
18 CV 00282 (KMK)

Dear Judge Karas:

This office represents the defendant Office of Court Administration New York Courts [sic]. I write to request that defendant be permitted to respond to plaintiff's letter dated September 17, 2018 and his proposed Amended Complaint filed with the Court on September 12, 2018.¹ By Order dated June 14, 2018, Your Honor directed plaintiff to file his amended complaint by July 9, 2018. On July 12, 2018, plaintiff's amended complaint was filed by ECF. Thus, the September 12, 2018 filing is more properly styled Plaintiff's Second Amended Complaint.

Following defendant's letter dated July 25, 2018 requesting a pre-motion conference, this Court granted that request, setting the following schedule: defendant's motion to dismiss the amended complaint due on September 14, 2018, plaintiff's opposition due on October 15, 2018, and defendant's reply being due by October 29, 2018.

Thereafter, by letter dated September 7, 2018, defendant requested an extension of time to move to dismiss the amended complaint. By Order dated September 13, 2018,

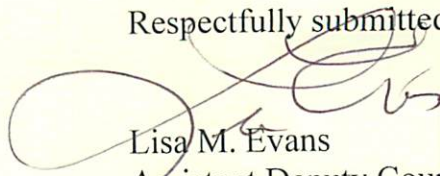
¹In plaintiff's September 17, 2018 letter to the Court, he references a September 7, 2018 letter which this office has not received.

this Court granted the request, resetting the motion schedule: defendant's motion to dismiss the amended complaint due October 15, 2018, response due November 12, 2018 and reply due November 26, 2018.

On September 12, 2018, plaintiff's Second Amended Complaint was filed by ECF without an accompanying motion. Plaintiff's 49 page proposed second amended complaint, plus exhibits, seeks to add additional defendants, all of whose identities were previously known to plaintiff, and contains multiple allegations in single paragraphs made up of run-on sentences that are confusing and that run several pages in length.

It appears that plaintiff has not sought the requisite permission to file a Second Amended Complaint.(Rule 15a(2)) Accordingly, defendant requests that the present motion schedule directed toward a motion to dismiss the First Amended Complaint be held in abeyance, pending the resolution of plaintiff's ability to file a Second Amended Complaint. If the Court intends to treat the September 12, 2018 ECF filing of the Second Amended Complaint as a motion for permission to further amend, defendant respectfully requests that it be given thirty (30) days to submit opposition to such motion.

Respectfully submitted,



Lisa M. Evans
Assistant Deputy Counsel

cc: Marc Fishman
Pro Se Plaintiff
(Via Email)